

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MDL Docket No. 1629
Master File No. 04-10981

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IN RE: NEURONTIN MARKETING
SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO:

Shearer v. Pfizer Inc, 1:07-cv-11428-WGY

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DAILY TRANSCRIPT OF PRELIMINARY
JURY INSTRUCTIONS, OPENING
STATEMENTS and THE EVIDENCE
(Volume 2)

BEFORE: The Honorable William G. Young,
District Judge, and a Jury

APPEARANCES:

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- and -

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- and -

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77069, on behalf of the Plaintiffs

1 Courthouse Way
Boston, Massachusetts

March 31, 2010

A P P E A R A N C E S (Cont'd)

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THE CLERK: All rise. Court is in session, please be seated.

Calling Civil Action 07-11428, Shearer v. Pfizer.

Oh, sorry, Judge.

MR. ROSENKRANZ: Good morning, your Honor.

THE COURT: Good morning, counsel. Would you come over here to the side bar, this doesn't have to be on the record.

(Side bar conference off the record.)

THE COURT: We'll stand in recess until we have the jurors. If they're back there we'll start right at nine o'clock. We'll recess.

THE CLERK: 11 rise. Court is in recess.

(Recess.)

THE CLERK: 11 rise for the jury.

(Whereupon the jury entered the courtroom.)

THE CLERK: Court is in session, please be seated.

THE COURT: Good morning, folks.

THE CLERK: If you would move down one. Thank you. In the second row. Right. Okay, great.

THE COURT: My name is Bill Young. I'm the judge who is assigned to preside in this session of the Court. You've already met my colleague, Magistrate Judge Bowler, who was gracious enough to conduct the impanelment of the jury, but you're stuck with me for the actual trial of the

I N D E X

WITNESS: DIRECT CROSS REDIRECT RECROSS

DAVID FRANKLIN

By Mr. London 46 150

By Mr. Ohlemeyer 120

FOR IN

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case. That's my responsibility.

You were sworn as jurors. Mr. Newman, the Court appoints you foreman of this jury.

Let me take a few minutes to explain in detail exactly what's going to happen in this case and to tell you a little bit about what your function is in this case because you are the most important people in the courtroom.

At this time, in this courtroom, there are thirteen judges. You twelve men and women are the judges of the facts. You are the only judges of the facts. I'm the judge of the law.

Now, let's consider a moment what that means to be judges of the facts. This is informal, but I want to ask you this: Do any of come from towns where they have direct town meeting, everyone can get, go to town meeting and vote? Does anyone? Thank you. Thank you.

When I'm picking a jury that's the first thing I ask of the whole group. And you see you people who come from towns where they have direct town meeting, you have the experience of direct democracy, the people themselves ruling directly. I don't come from such a town. But in those towns everybody can go to town meeting. Everybody, if you're 18 years of age or older, you can go to town meeting and you 11 can vote. You vote whether to buy another fire engine, raise the teachers' salaries, close the town dump.

1 didn't ask to be here, though you're charged with this
2 important constitutional function. So get to know each
3 other. Talk. Just not about what's going on in this room.

4 Now, I don't mean to beat that to death. But it is
5 very important. And every time we recess I will remind you
6 of it by saying keep your minds suspended. Do not discuss
7 the case either among yourselves nor with anyone else.

8 We'll recess for one-half hour until 20 minutes
9 after 10:00. We'll stand in recess.

10 THE CLERK: 11 rise for the jury.

11 THE COURT: I'll remain on the bench.

12 (Whereupon the jury left the courtroom.)

13 THE COURT: Please be seated.

14 I want the recess -- please be seated.

15 I want the recess, too, so I'm only going to take a
16 minute.

17 I've got this plaintiff's motion to preclude the
18 utilization of the deposition of Charles Taylor. You're
19 going to call Taylor or -- where's Taylor? Physically?

20 MR. OHLEMEYER: Physically, I think he's in
21 Wisconsin, your Honor.

22 THE COURT: All right. Why can't he be here?

23 MR. OHLEMEYER: He's in between chemotherapy
24 treatments, which is why we took the preservation deposition
25 last summer that we took to use in cases like this.

1 don't insist upon it. The jury's 11 perfectly comfortable.
2 So you people be comfortable. I just didn't want everybody
3 else leaping up in case -- and honestly, I don't insist upon
4 it. The bar enclosure is yours.

5 Now, I've done another one of these depositions.
6 The way they've been submitted to me is fine. I understand
7 you've got a problem with exhibits. So, recognizing that,
8 I've said that the plea colloquy, if you've got that, and
9 the judgment in the criminal case, those are admissible.
10 Beyond that, now, when I did Mr. Glanceman, if a foundation
11 appears in the deposition, I have underlined the exhibit and
12 written admitted. So you don't need anymore. For example,
13 he was shown an exhibit which from the transcript I am
14 satisfied again is a Pfizer document, ergo an admission, and
15 I'm satisfied that it's relevant. So if I can figure it out
16 from the deposition, I'll do it because I want things to go
17 smoothly. But if I can't, I'm not -- if there isn't an
18 underlining and admitted, the exhibit is not in and you'll
19 have to get it in some other way.

20 We'll recess until 20 after 10:00. We'll recess.

21 THE CLERK: 11 rise. Court is in recess.

22 (Recess.)

23 THE CLERK: 11 rise for the jury.

24 (Whereupon the jury entered the courtroom.)

25 THE CLERK: Court is in session, please be seated.

1 THE COURT: All right. You're going to have to
2 supply medical evidence in view of their objection.
3 And with respect to Cynthia McCormick, she's not an
4 expert?

5 MR. FROMSON: That's what the dispute is, your
6 Honor.

7 MR. OHLEMEYER: Correct. Well, she's a witness who
8 by reason of her position --

9 THE COURT: You're paying her.

10 MR. OHLEMEYER: No, no. She is a fact witness to
11 events that occurred while she was at the FDA.

12 THE COURT: You're paying her?

13 MR. OHLEMEYER: She was paid for consulting after
14 she left the FDA.

15 THE COURT: Right. That goes to the weight, not
16 the admissibility. I won't treat her as an expert. But I
17 can handle that on the deposition.

18 (Whereupon the Court and the Clerk conferred.)

19 THE COURT: Yes, two other just housekeeping things
20 and let's take the -- Mr. London?

21 MR. LONDON: Yes, sir.

22 THE COURT: The practice in Massachusetts, but I
23 didn't want to correct you, and I'm perfectly comfortable
24 with your demeanor in court, but the practice is that
25 lawyers stand when they inquire. You don't have to. I

1 THE COURT: Proceed, Mr. London.
2 DIRECT EXAMINATION (Cont'd)

3 BY MR. LONDON

4 Q Dr. Franklin, when we recessed you had just begun to
5 tell the jury about one of your tools that you used out in
6 the parking lot.

7 MR. LONDON: I would ask that Exhibit 2020,
8 page 177, be called up on the screen, please.

9 THE CLERK: All right, let's see. You're with the
10 plaintiffs, right?

11 MR. LONDON: Yes, I'm sorry.

12 THE CLERK: No, that's okay. I just have to get
13 acclimated.

14 MR. LONDON: So do I.

15 Q All right, 2020 is just a cover page showing the date,
16 and Parke-Davis provided that to you?

17 A Yes.

18 Q Now, let's turn to the next page which I believe is
19 page 178 of the exhibit. Would you just show the jury in
20 sort of a quick form how this document, you used it as a
21 tool. Start at the territory and --

22 A Right. So, so in the far -- you guys can see it?

23 Q You have a highlighter that will work better. Maybe if
24 you highlighted where you --

25 THE CLERK: You can --